

Notice of Allowability

Application No.

10/658,226

Examiner

Peter J. Vrettakos

Applicant(s)

DE LA TORRE ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE 11-9-05.
2. ☒ The allowed claim(s) is/are 1-6.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Marc Frechette on 11-11-05.

The application has been amended as follows:

1. Claim 1, lines 13-14: "a heating element disposed on at least one of the jaws and located between the pair of jaws" has been deleted.
2. Claim 5, lines 16-17: "a heating element disposed on at least one of the jaws and located between the pair of jaws" has been deleted.
3. Claim 6, lines 12-13: "a heating element disposed on at least one of the jaws and located between the pair of jaws" has been deleted.
4. Claim 1, line 11: -- a heating element disposed on at least one of the jaws and located between the pair of jaws;-- has been inserted after (as a separate limitation) "distal end of the catheter".

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5. Claim 1, line 13: -- without the heating element, said snare cable -- has been inserted after "cable".

6. Claim 5, line 14: -- a heating element disposed on at least one of the jaws and located between the pair of jaws;-- has been inserted after (as a separate limitation) "distal end of the catheter".

7. Claim 5, line 16: -- without the heating element, said snare cable -- has been inserted after "cable".

8. Claim 6, line 10: -- a heating element disposed on at least one of the jaws and located between the pair of jaws;-- has been inserted after (as a separate limitation) "distal end of the catheter".

9. Claim 6, line 12: -- without the heating element, said snare cable -- has been inserted after "cable".

The following is an examiner's statement of reasons for allowance: **Claims 1-6 are pending. Claims 1,5, and 6 are independent.** The Examiner's Amendment above has obviated the remaining argument that had impeded allowance. Independent claims 1,5,6 now all disclose a device (figure 3) with jaws (5,6) with a heating element (17)

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separate from a snare cable (7). On the other hand, the Chu reference (6,010,512) disclosed a snare cable that was **integral** (electrically continuous) to device jaws with a heating element (see figure 5). Note: claims 5 and 6 are method claims, which use the allowable claim 1 structure.

The instant application is a continuation of USPN 6,616,659, in which the method of use for the invention depicted in figure 3 is patented. Language toward apertures and rotatability not taught or suggested in the prior art (by Chu), as well as not found in the instant application's claims, is found in the lone-patented claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

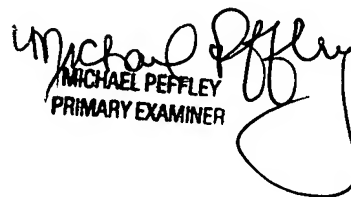
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pete Vrettakos
November 13, 2005



MICHAEL PEFFLEY
PRIMARY EXAMINER